

REMARKS

The Office Action may be summarized as follows:

1. Claims 1 through 9 were withdrawn from consideration. Those claims have now been cancelled without prejudice.

2. Claim 10 through 20 have been rejected. Claims 10, 12, 13, and 18 through 19 were rejected under 35 USC 102(b) in view of Camardo. Claims 11, and 14 through 16 were rejected under 35 USC 103(b) as being obvious over Camardo in view of Kelly. Claim 17 was deemed obvious over Camardo in view of Kelly in view of Snyder. Claim 20 was rejected as obvious over Camardo in view of Bollinger.

The above-noted bases for rejection are respectfully traversed.

This amendment more clearly distinguishes the invention from the cited art by stating that a single base-located adjustable connector loosely supports a rigid right angle brace set which may be rotated in unitary condition to a vertical position. The adjustable connector is then tightened after the unitary brace has been leveled and made plumb by a free standing screwjack coupled at the outrigger end of the horizontal member of the brace. Applicants' invention does not require any buried in the ground anchor deadman. The cited prior art - whether taken singularly or in combination - it is respectfully submitted - fails to teach or suggest these and other features as now claimed.

It will be shown herein that the prior art (alone or in combination) fails to suggest or disclose the following:

1. An anchor-free apparatus with stiff unitary right angle brace members rotated into place for bracing a wall being fabricated from masonry blocks.

2. A single one only base-located connector opening having a longitudinal axis of rotation about which a cantilevered horizontal member may be rotated and tilted.

3. A bracing concept in which a right angle brace set may be rotated around said connector's longitudinal axis.

4. A stiff vertical brace member including a cantilevered horizontal member oriented for tilting by an adjustable free standing leveling means at the outrigger end of the horizontal member.

5. A pair of spaced apart flanges which sandwich and rigidly affix vertical and horizontal brace members together into a unitary right angle brace structure adapted for both rotational and tilting placement adjacent a wall's vertical surface.

6. A single adjustable connector means coupled to the right angle of said brace structure and having a length sufficient to extend through said base-located connector opening and being adjustable for fixing a rigid right angle brace structure in place as a unitary structure.

7. Manually operable means for both tightening and/or loosening said adjustable connector means in order to allow said rigid unitary brace set to be rotated, tilted slightly and fixed in place;

8. A screwjack resting on a plate sitting on the surface of the ground, which screwjack is located at the outermost end of said horizontal member for

tilting said horizontal member until said vertical brace member is flush against said wall surface.

9. Other features as set forth in the amended and newly presented claims by this amendment.

The primary reference (Camardo 4,068,427) relied upon for the anticipation rejection (35 USC 102(b)) of claims 10, 12, 13, and 18 through 19 is simply not applicable to the amended or newly presented claims. Camardo alone or in combination does not teach or suggest the above-noted features. Indeed, the Examiner relied upon only a selective portion of the Camardo "anchored-in-the-ground" disclosure. Camardo really presents, at best, an incidental and partial disclosure and then only after Camardo has been assembled piece by piece alongside the wall being fabricated. The teaching of the Camardo disclosure is foreign to the novelty of Applicants inventive approach.

Applicants thank the Examiner for her detailed application of this inadvertent disclosure to Applicants earlier claims. Clearly, however, the piece by piece assembly of the Camardo structure of his Figure 3 through 8 highlights the novelty of Applicants invention rather than obviating same. Only by discounting several primary features of Applicants' invention, can the Camardo reference be suggested as remotely applicable to Applicants' invention.

The amended claims now stress that only one single base-located connector is required and that single connector is adjustably located at the base of the wall. This single adjustable bolt and nut combination allows a user to rotate into place a non-ground-anchored unitary right angle brace. Rotation of the fixed unitary brace allows it to easily be set into position as an assembled unitary brace structure. The Camardo foundation mounting plate 26 of Figures 3 and 4 does not meet the claimed structure in words, concept or function.

Camardo's plate 26 is not adjustable nor does it allow a rigid unitary brace to be rotated, tilted and then tightened into place.

Camardo Figure 3 discloses the many individual elements that must be assembled piece by piece against the wall reminiscent of the Brace-Rite disclosure earlier described by Applicants at page 9, lines 20 through 29. Such pieces must then be anchored by the buried-in-the-ground Camardo stakes 41 and stake anchor plate 41. The Camardo reference, it is respectfully submitted, does not teach or suggest Applicants' novel structure or bracing features.

Furthermore, please note that Camardo is really a modified Brace-Rite system which mandates a series of vertical openings for snap tie rods 30 with enlarged heads 30a. As Camardo readily admits at page 7, starting at line 21, these heads 30a must be separated from the body 30 by striking with a hammer, etc. Camardo states in part:

After the supporting structure for the masonry wall has been completed and the wall bracing system is dismantled from the wall, the ends of snap tie rods 30 may easily be broken off and the remaining holes in the mortar joints can be filled with mortar.

Applicants' novel invention avoids such a costly and time consuming procedure. Applicants system does not destroy steel such as the Camardo snap tie rods. Moreover the Brace-rite and/or Camardo approaches both mar an extended vertical surface of the wall, assembles a great deal of hanging weight on the wall that needs support, increases the load factors on the wall itself and requires buried in the ground anchor type deadmen. These and other disadvantages are avoided by Applicants screwjack and non-buried in the ground apparatus. Applicants' newly amended claims clearly distinguish from this Camardo approach with its many serious deficiencies.

Claims 11, and 14 through 16 were rejected under 35 USC 103(a) over Camardo in view of Kelly (US 4,000,592). First, the proposed combination from a technology standpoint can apply only to both sides of a wall application. Next, adding the Kelly disclosure to Camardo does not cure the many Camardo deficiencies pointed out above. Additionally, it is submitted that the proposed combination does injustice to both disclosures and indeed, may be totally unworkable. In any event, however, the proposed combination of Kelly and Camardo may very well be not only inoperative but at the very least does not form an enabling disclosure.

It is respectfully submitted that the proposed Kelly-with-Camardo disclosure increases the complexity and shows why hindsight reconstruction difficulties arise when an Applicants disclosure is used against him or herself. For example, the wall according to Kelly must reach "approximately 10 feet in height" before the Camardo or Kelly wall engaging members 28 and 30 come into play.

Kelly discloses flexible members 14, 16 and 18 whereas Camardo wants stiff partial members 34, 35 and 33. Camardo built a many piece system by a brace section followed by another brace section from the base up. Kelly, on the other hand, demands a wall 10 feet in height before he starts bolting his opposed members 28 and 30 in place. Why would such distinctly different approaches suggest the two reference combination proposed in the Office action?

Of major importance, it should be noted, is that neither reference teaches or suggests a rigid right angle brace loosely coupled to an adjustable single base-located connecting means for rotation in place, screwjack leveling and adjusting a single bolted vertical member tight against the wall. Indeed, reliance on Kelly in combination with Camardo

effectively turns Applicants' disclosure against themselves. That is basically unfair. It is only in Applicants' disclosure that a rigid right angle brace - without a buried in the ground anchor and rotatable about a single adjustable base-located connecting means - is taught and claimed.

Kelly, of course, fails first to disclose a rigid unitary right angle brace support loosely coupled to Applicants' single base-located connecting means 80. Instead, Kelly mandates flexible members or what he terms as "collapsible" triangular structures 14, 16, and 18 interconnected together from both sides of the wall. See page 5, lines 22 through 29 wherein he discloses such cable to be wire rope of 1/2 to 3/4 inches in diameter. Although stiff, heavy and almost unmanageable, such cables do not qualify as a stiff or rigid right angle brace nor does Kelly teach or suggest Applicants' invention as now claimed.

Moreover Kelly - as does Camardo - mandates reliance upon "high on the wall" bolted plates 48 and 50. At lines 1 through 11, etc. of page 6, Kelly gives a dramatic summary of the bulk and cumbersome approach both he and Camardo mandate: Kelly states that his plates 28 and 30 are "6 feet in length, 6 inches in width and 2 1/2 inches in depth." Such bulky plates are secured to the Kelly wall by a plurality of bolts 66 about 1 inch in diameter required to hang members 20 and 22 from the apparatus. Imagine the weight and size of the Kelly turnbuckles 40 alone not to speak about the cable weight!

Kelly members 20 and 22, - like Camardo members 35, 32 and 33 - present at best an unrelated but weighty and bulky approach to a long standing problem that has remained unsolved since the 1970s. How curious it is that a wall needing support must have hung on it - according to the reference combination - such heavy and unwieldy members.

Applicants' solution does not require any such Camardo and/or Kelly techniques.

Moreover, Figures 3, 4 and 5 of Kelly show the precise angular adjustments mandated by his "both-sides-of-the-wall" flexible cable approach. Preconfigured and set in precise dimensional application, such prior art, even if a workable combination is assumed, shows none of the flexibility and ingenuity that is featured by Applicants novel invention. Reconsideration is respectfully requested.

As to previous claim 17 the Examiner has relied on Camardo in view of Kelly in view of Snyder US 6,256,939. The Snyder reference of course, can not overcome the several deficiencies noted above for the Kelly and Camardo combination. Snyder simply discloses a typical house mover's screw jack 5 for lifting beams. Why would the Snyder center mounted jack 5 be applied at an outrigger location as first taught by Applicants? The answer is it wouldn't be so used.

One can read Snyder from start to finish and nothing suggests or teaches the round open cylinder housing at the outrigger end of a cantilever-connected rigid horizontal member. Moreover, a center lift does not teach or suggest placement of Applicants' screw jack for a cantilever tilting of the horizontal member as taught by Applicants for both leveling and assuring that a vertical rigid brace member becomes flush against the wall being fabricated.

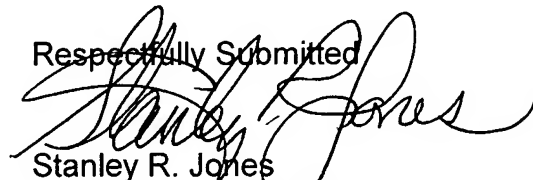
Indeed, it is respectfully submitted that it is only by impermissible hindsight again that the beam jack 5 of Snyder is moved into the two reference combination. Clearly without reference first to Applicants teaching, it is impossible to know where Snyder's screwjack 5 would be placed. Place Snyder screw jack 5 at 92 of Kelly and the wall

can be tipped over by Snyder but certainly will not be stabilized. Or, perhaps, the beams 20 or 22 would tear the bolts 66 and the plates 28 and 30 away from their depicted location. Indeed if placed in Kelly as suggested by the Office Action the slack introduced into the Kelly cables will clearly destroy the intended operation of Kelly. Placing Snyder's screw jack 5 at 40, 41 of Camardo will not achieve Applicants' invention; but, if operable at all, will again tend to tip the Camardo wall over.

Bolinger et al discloses cap 52. This feature is of less significance to Applicants' novel invention and thus such structure has been cancelled from Applicants' claims. Bollinger et al, however, does not readily combine with Camardo, Kelly or Snyder. Reconsideration is respectfully requested.

The title has been made more precise and is in keeping with the major distinctions of Applicants invention over the cited art. In summary, all of the references have been studied and commented upon. None of them, either alone or in combination are deemed relevant to Applicants' novel invention. Allowance of the case is requested.

Respectfully Submitted


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